

# Notice of Allowability

Application No.

10/762,838

Examiner

Janet L. Coppins

Applicant(s)

POEL, TONI-JO

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' Response of January 27, 2005.
2. ☒ The allowed claim(s) is/are 15-24.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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### **DETAILED ACTION**

Claims 15-24 pending in the instant application.

#### ***Response to Amendment***

1. Receipt is acknowledged of Applicants' Response, submitted January 27, 2005, which has been reviewed by the Examiner. Accordingly, original claims 1-14 have been cancelled and new claims 15-24 have been added, which are directed to the same subject matter as originally claimed.

#### ***Priority***

2. The previous Examiner of record for this application, Examiner Waller, had indicated an incorrect claim for foreign priority in the Office Action of November 3, 2004. The correct priority is to a provisional application, Serial No. 60/449,734 filed February 24, 2003.

#### ***Claim Objections***

3. Claims 1-6 previously objected to as containing non-elected subject matter. In view of the cancellation of the claims, and Applicants' amendatory changes to limit the scope of the compounds being claimed, the Examiner withdraws the objections of the claims.

#### ***Allowable Subject Matter***

4. Claims 15-24 are allowable, as newly renumbered claims 1-10. The following is an examiner's statement of reasons for allowance:

This invention relates to novel indol-2-one oxazolidinones, derivatives thereof, and their methods of use. The allowable claims in this case are claims 15-24, which are directed to the above-mentioned compounds and methods of using them to treat microbial infections. Certain indolinyloxazolidinones that have antibacterial properties are known in the art. However the

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aspect of administering the instant indol-2-one oxazolidinones, to treat microbial infections in mammals is novel and unobvious. After a thorough search, the closest of prior art, Genin et al, WO 02/102785 A1, was found to teach similar indolinyloxazolidinone compounds that have antibacterial properties. However, the genus of compounds taught in the WO document does not teach or render obvious the same compounds as instantly claimed, since the oxo is not taught on the 2-position of the indole ring, nor are the same moieties taught for the "Z" variable, which distinguishes them from the compounds of the instant invention. Therefore the prior art does not anticipate or fairly suggest the claimed compounds or their use for treating microbial infections.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Telephone Inquiry***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Coppins whose telephone number is 571.272.0680. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571.272.0699. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Coppins  
April 27, 2005

  
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Joseph K. McKane  
SPE, Art Unit 1626